

Daniel Feinberg – CA State Bar No. 135983
Todd F. Jackson – CA State Bar No. 202598
Margaret E. Hasselman – CA State Bar No. 228529
Nina R. Wasow – CA State Bar No. 242047
Kirsten Gibney Scott – CA State Bar No. 253464
LEWIS, FEINBERG, LEE, RENAKER & JACKSON, P.C.
1330 Broadway, Suite 1800
Oakland, CA 94612
Telephone: (510) 839-6824
Facsimile: (510) 839-7839
Email: dfeinberg@lewisfeinberg.com
Email: tjackson@lewisfeinberg.com
Email: mhasselman@lewisfeinberg.com
Email: nwasow@lewisfeinberg.com
Email: kscott@lewisfeinberg.com

Attorneys for Plaintiffs and the Proposed Class

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO AND OAKLAND DIVISION

THOMAS FERNANDEZ, LORA SMITH, and) Case No. C-06-07339 CW
TOSHA THOMAS, individually and on behalf)
of a class of all other persons similarly situated.)

Plaintiffs.

VS.

K-M INDUSTRIES HOLDING CO., INC.;
K-M INDUSTRIES HOLDING CO., INC.
ESOP PLAN COMMITTEE; WILLIAM E.
AND DESIREE B. MOORE REVOCABLE
TRUST; TRUSTEES OF THE WILLIAM E.
AND DESIREE B. MOORE REVOCABLE
TRUST; CIG ESOP PLAN COMMITTEE;
NORTH STAR TRUST COMPANY;
DESIREE B. MOORE REVOCABLE TRUST
WILLIAM E. MOORE MARITAL TRUST;
WILLIAM E. MOORE GENERATION-
SKIPPING TRUST; and DESIREE MOORE,
BOTH IN HER INDIVIDUAL CAPACITY
AND AS TRUSTEE OF THE WILLIAM E.
AND DESIREE B. MOORE REVOCABLE
TRUST'S SUCCESSOR TRUSTS NAMED
ABOVE.

Case No. C-06-07339 CW

**DECLARATION OF NINA WASOW IN
SUPPORT OF PLAINTIFFS'
ADMINISTRATIVE MOTION TO
EXTEND THE PAGE LIMIT FOR
OPPOSITIONS TO DEFENDANTS'
MOTIONS FOR SUMMARY
JUDGMENT**

Defendants.

DECLARATION OF NINA WASOW IN SUPPORT OF PLAINTIFFS' MOTION FOR ADMINISTRATIVE RELIEF

[Case No. C-06-07339 CW]

1 I, Nina Wasow, declare as follows:

2 1. I am a member in good standing of the State Bar of California and an attorney
3 with Lewis, Feinberg, Lee, Renaker & Jackson, P.C., which is counsel for Plaintiffs in this
4 action. I have personal knowledge of the facts contained in this declaration and, if called to
5 testify, will testify as set forth below.

6 2. Attached hereto as Exhibit 1 is a true and correct copy of e-mail correspondence
7 among counsel for the parties to the above-captioned matter, dated June 30, 2008 and July 1,
8 2008.

9 I declare under penalty of perjury that the foregoing is true and correct. Executed on July 1, 2008
10 at Oakland, California.

11 _____/s/
12 Nina Wasow
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF NINA WASOW IN SUPPORT OF PLAINTIFFS' MOTION FOR ADMINISTRATIVE
RELIEF

[Case No. C-06-07339 CW]

Page 2

Nina Wasow

From: Lauren A. Smith [SmithL@hbdlawyers.com]
Sent: Tuesday, July 01, 2008 12:24 PM
To: Nina Wasow; asullivan@morganlewis.com
Cc: Dan Feinberg; jth@lh-sf.com; Margo Hasselman; ndiller@morganlewis.com; Robert L. Palmer; RL@LH-SF.com; rne@lh-sf.com; tfylaw@earthlink.net; Todd Jackson; Caroline Walters; dpsullivan@morganlewis.com; hib@lh-sf.com
Subject: Re: Fernandez et al v. Kelly-Moore et al -- summary judgment briefing

We do.

----- Original Message -----

From: Nina Wasow <NWwasow@lewisfeinberg.com>
To: 'Andrew C. Sullivan' <asullivan@morganlewis.com>
Cc: Dan Feinberg <DFeinberg@lewisfeinberg.com>; 'Tom Hannan' <jth@lh-sf.com>; Margo Hasselman <MHasselman@lewisfeinberg.com>; 'Nicole Diller' <ndiller@morganlewis.com>; Robert L. Palmer; 'Ronald Lovitt' <rl@lh-sf.com>; 'R-Nicholas Eveleigh' <rne@lh-sf.com>; Lauren A. Smith; 'Terence Young' <tfylaw@earthlink.net>; Todd Jackson <tjackson@lewisfeinberg.com>; Caroline Walters; Donald P. Sullivan <dpsullivan@morganlewis.com>; Henry Bornstein <hib@lh-sf.com>
Sent: Tue Jul 01 12:19:27 2008
Subject: RE: Fernandez et al v. Kelly-Moore et al -- summary judgment briefing

Do the Moore Trust Defendants also take this position?

Nina Wasow

Lewis, Feinberg, Lee, Renaker & Jackson, P.C.

1330 Broadway, Suite 1800

Oakland, CA 94612-2519

Tel: (510) 839-6824

Fax: (510) 839-7839

From: Andrew C. Sullivan [mailto:asullivan@morganlewis.com]
Sent: Tuesday, July 01, 2008 9:54 AM
To: Nina Wasow
Cc: Dan Feinberg; 'Tom Hannan'; Margo Hasselman; 'Nicole Diller'; 'Robert L. Palmer'; 'Ronald Lovitt'; 'R-Nicholas Eveleigh'; 'Lauren A. Smith'; 'Terence Young'; Todd Jackson; 'Caroline Walters'; Donald P. Sullivan; Henry Bornstein
Subject: RE: Fernandez et al v. Kelly-Moore et al -- summary judgment briefing

Nina,

North Star agrees with the KMH defendants' position as set forth in Henry's e-mail below.

Andrew

Andrew C. Sullivan
Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco, CA 94105
(415) 442-1317 (direct)
(415) 442-1001 (fax)
asullivan@morganlewis.com

IRS Circular 230 Disclosure

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of: (i) avoiding penalties under the Internal Revenue Code; or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein. For information about why we are required to include this legend in emails, please see <http://www.morganlewis.com/circular230>.

"Henry Bornstein" <hib@lh-sf.com>

"Henry Bornstein" <hib@lh-sf.com>

07/01/2008 08:48 AM

To

"'Nina Wasow'" <NWasow@lewisfeinberg.com>, "'Ronald Lovitt'" <rl@lh-sf.com>, "'Nicole Diller'" <ndiller@morganlewis.com>, asullivan@morganlewis.com, "'Lauren A. Smith'" <smithl@hbdlawyers.com>, "'Robert L. Palmer'" <Palmer@hbdlawyers.com>, "'Caroline Walters'" <WaltersC@hbdlawyers.com>, "'Tom Hannan'" <jth@lh-sf.com>, "'Terence Young'" <tfylaw@earthlink.net>, "'R-Nicholas Eveleigh'" <rne@lh-sf.com>

CC

"'Margo Hasselman'" <MHasselman@lewisfeinberg.com>, "'Todd Jackson'" <tjackson@lewisfeinberg.com>, "'Dan Feinberg'" <DFeinberg@lewisfeinberg.com>

Subject

RE: Fernandez et al v. Kelly-Moore et al -- summary judgment briefing

Nina,

On behalf of the KMH defendants, we agree that you have the right to file a 25 page brief in opposition to each defendant's summary judgment motion. We do not, however, see any reason not to follow the usual rules that apply, which seem adequate to protect your ability to respond to the motions on file. We therefore have no problem with your filing a separate brief of up to 25 pages in opposition to each defendant's motion. We do not agree to your filing any opposition brief in excess of the 25 page limit. The motion of each defendant stands on its own and we do not think it would be fair to give you more than the 25 pages specified in the rules to respond to our motion, whether or not the brief also purports to respond to another motion.

Henry

~~~~~  
Henry I. Bornstein, Esq.

Lovitt & Hannan, Inc.

Of Counsel to Bartko, Zankel, Tarrant & Miller, A Professional Corp.

900 Front Street, Suite 300, San Francisco 94111

Telephone: 415-362-8769 \* Facsimile: 415-362-7528

Email: [hib@lh-sf.com](mailto:hib@lh-sf.com) <<mailto:hib@lh-sf.com>>

---

From: Nina Wasow [mailto:[NWasow@lewisfeinberg.com](mailto:NWasow@lewisfeinberg.com)]  
Sent: Monday, June 30, 2008 4:05 PM  
To: 'Henry Bornstein'; Ronald Lovitt; 'Nicole Diller';  
[asullivan@morganlewis.com](mailto:asullivan@morganlewis.com); Lauren A. Smith; Robert L. Palmer  
Cc: Margo Hasselman; Todd Jackson; Dan Feinberg  
Subject: Fernandez et al v. Kelly-Moore et al -- summary judgment  
briefing

Counsel,

As you know, because each Defendant filed a separate Motion for Summary Judgment last week, Plaintiffs are entitled to three twenty-five page opposition briefs. We are not planning to file three briefs. Please let us know as soon as possible whether you agree to Plaintiffs' filing either one brief that is limited to 65 pages or two briefs, one of which is limited to 40 pages and the other of which is limited to 25 pages.

Thank you.

Nina

Nina Wasow  
Lewis, Feinberg, Lee, Renaker & Jackson, P.C.  
1330 Broadway, Suite 1800  
Oakland, CA 94612-2519  
Tel: (510) 839-6824  
Fax: (510) 839-7839

DISCLAIMER

This e-mail message is intended only for the personal use of the recipient(s) named above. This message may be an attorney-client communication and as such privileged and confidential. If you are not an intended recipient, you may not review, copy or distribute this message. If you have received this communication in error, please notify us immediately by e-mail and delete the original message.

-----  
HENNIGAN, BENNETT & DORMAN LLP  
865 South Figueroa Street  
Suite 2900  
Los Angeles, California 90017  
Telephone: (213) 694-1200  
Facsimile: (213) 694-1234  
-----

This e-mail was sent by a law firm and may contain information that is privileged or confidential.  
If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.  
Thank you.